



Alan C. Lloyd, Ph.D.
Agency Secretary

California Regional Water Quality Control Board
North Coast Region
Beverly Wasson, Chairperson

<http://www.waterboards.ca.gov/northcoast>
5550 Skylane Boulevard, Suite A, Santa Rosa, California 95403
Phone: 1 (877) 721-9203 (toll free) • Office: (707) 576-2220 • FAX: (707) 523-0135



Arnold
Schwarzenegger
Governor

August 4, 2005

Mr. Toni Bertolero
City of Cotati
201 West Sierra Avenue
Cotati, CA 94931

Dear Mr. Toni Bertolero:

Subject: Issuance of Clean Water Act Section 401 Certification (Water Quality Certification) for the Cotati Creek Bypass Project

File: City of Cotati, Cotati Creek Bypass Project, WDID No. 1B05015WNSO

This Order by the California Regional Water Quality Control Board, North Coast Region (Regional Water Board), is being issued pursuant to Section 401 of the Clean Water Act (33 USC 1341). It is being issued in response to City of Cotati's February 14, 2005 request for a Clean Water Act, Section 401, Water Quality Certification. On February 14, 2005 the Regional Water Board received an application from the City of Cotati, requesting a Water Quality Certification and/or Waste Discharge Requirements (Dredge/Fill Projects) for the Cotati Creek Bypass Project located in Cotati, California. The Regional Water Board received a complete application and processing fee in the amount of \$586.00 on February 14, 2005. Information describing the proposed project was noticed for public comment for a 21-day period on the Regional Water Board's website. No comments were received. The proposed project will cause disturbances to the Waters of the U.S. associated with the Laguna Hydrologic Sub Area No. 114.21, Russian River Hydrologic Unit No. 114.00.

Project Description: The proposed project is located 500 feet east of Highway 101 at the West Sierra Avenue exit in the City of Cotati. The purpose of this project is to construct a reinforced concrete box culvert to bypass peak storm flows around a portion of Cotati Creek that parallels Water Road and West Sierra Avenue for approximately 675 feet, to reduce flooding potential in the immediate area.

Construction will include the installation of 375 feet of reinforced concrete box culvert (RCB) within the city streets along Water Road and the installation of an additional 296 feet adjacent to Cotati Creek along West Sierra Avenue in which a 60-foot portion will encroach into the north bank of Cotati Creek. The RCB will begin at an existing box culvert and terminate at an existing bypass culvert. The 6-ft by 4-ft RCB will be installed in an 8-ft by 10-ft

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open trench and will be placed on a 12-inch crushed rock bedding, backfilled with compacted aggregate base or native material.

The creek bank will be trenched to the depth of 10 feet to install the drop storm drain that will connect the new bypass to the existing bypass. The creek bed will be trenched for 35 linear feet at a depth of 5 feet to install the 8-ft by 3-ft box culvert. The project permanently affects 0.01 acres of jurisdictional Waters of the U.S. with a total of 48.1 cubic yards of permanent fill as a result of the concrete inlet structure, the RCB and the concrete outlet structure.

According to the City of Cotati, Cotati Creek is an ephemeral stream and construction in the creek will occur only after it has become dry for the summer to reduce the potential for erosion. In the event of contacting groundwater during construction activities, dewatering will be performed in accordance with the *Section 02240 Dewatering* plans submitted by Winzler & Kelly Consulting Engineers. Construction is scheduled to take place between June 1 and October 1, 2005 and is expected to last approximately two months.

The Sonoma County California tiger salamander (*Ambystoma californiense*) (CTS) is listed as an endangered species, and subsequently down-listed to threatened, pursuant to the Endangered Species Act (ESA). Wetlands Research Associates, Inc. conducted adult and juvenile surveys for CTS in accordance with the U.S. Fish and Wildlife Service's *Interim Guidance on Conducting Site Assessments and Field Surveys for Determining Presence of A Negative Finding of the California Tiger Salamander* (2003). CTS were not detected during these surveys and according to the applicant, no mitigation is required for CTS.

Receiving Water:	Cotati Creek in the Laguna Hydrologic Sub Area No. 114.21, Russian River Hydrologic Unit No.114.00.
Federal Permit:	U.S. Army Corps of Engineers Nationwide Permit 12 (File Number 29409N).
State and Local Approvals:	California Department of Fish and Game Lake and Streambed Alteration Agreement (NOT No. 1600-2005-0077-3).
Filled or Excavated Area:	Total Area Impacted: 0.04 acre

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Area Temporarily Impacted: 0.03 acre
Area Permanently Impacted: 0.01 acre

Total Linear Impacts: 35.0 linear feet impacted
Length Temporarily Impacted (Restored): 35.0 feet
Length Permanently Impacted (Not Restored): 0.0 feet

Compensatory
Mitigation Overview:

Total Mitigation Area: 0.60 acres
Riparian Restoration: 0.60 acres
Wetland Enhanced: 0.00 acre
Wetland Existing (Avoided): 0.00 acre

Compensatory
Mitigation:

To compensate for the loss of 0.01 acre of creek habitat and temporary impacts to 0.03 acre or 35 linear feet, 0.6 acre of Cotati Creek bank at both the northern and southern ends of the project boundary will be restored, revegetated, and trees will be replanted following installation of the bypass as outlined in the submitted *Planting Plan*. Restoration of an additional 200 feet of the Cotati Creek bank along Water Road will include the removal of non-native species, removal and replacement of an existing degraded culvert, connection of the culvert to the new RCB, and replanting and stabilizing the creek banks with native vegetation and coco-matting to prevent erosion. The energy dissipater at the existing culvert outfall will be removed and the bank will be properly sloped, graded and stabilized.

Noncompensatory
Mitigation:

Non-compensatory mitigation measures have been incorporated into the project to reduce the potential impacts to water quality. Work will be completed during the dry season to avoid sediment discharges to surface waters. The City of Cotati will use erosion control Best Management Practices (BMPs) as specified in a Storm Water Pollution Prevention Plan (SWPPP) to reduce the potential for sediment and turbid discharges to surface waters. Seeding will be done at all site locations where disturbance from construction occurs in order to reduce potential future erosion issues.

CEQA Compliance:

The City of Cotati, as the lead California Environmental Quality Act (CEQA) agency, has determined that this Project qualifies for

a Mitigated Negative Declaration (SCH No. 2005032099), pursuant to CEQA.

Standard Conditions:

Pursuant to Title 23, California Code of Regulations, Section 3860 (23 CCR 3860), the following three standard conditions shall apply to this project:

- 1) This certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section 13330 of the California Water Code and 23 CCR 3867.
- 2) This certification action is not intended and shall not be construed to apply to any discharge from any activity involving a hydroelectric facility requiring a Federal Energy Regulatory Commission (FERC) license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to 23 CCR 3855(b) and the application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- 3) The validity of any nondenial certification action (actions 1 and 2) shall be conditioned upon total payment of the full fee required under 23 CCR 3833, unless otherwise stated in writing by the certifying agency.

Additional Conditions:

Pursuant to 23 CCR 3859(a), the applicant shall comply with the following additional conditions:

- 1) The Regional Water Board shall be notified in writing at least five working days (working days are Monday – Friday) prior to the commencement of grading work, with details regarding the construction schedule, in order to allow staff to be present on-site during construction, and to answer any public inquiries that may arise regarding the project.
- 2) No debris, soil, silt, sand, bark, slash, sawdust, rubbish, cement or concrete washings, oil or petroleum products, or other organic or earthen material from any construction or associated activity of whatever nature, other than that authorized by this permit, shall be allowed to enter into or be placed where it may be washed by rainfall into waters of the State. When operations are completed, any excess material or debris shall be removed from the work area.

No rubbish shall be deposited within 150 feet of the high water mark of any stream.

- 3) BMPs for sediment and turbidity control shall be implemented and in place prior to, during, and after construction in order to ensure that no silt or sediment enters surface waters.
- 4) All fill material used on the site shall be clean and free of contaminants. A characterization report for all imported fill materials shall be provided to the Regional Water Board prior to the commencement of grading work.
- 5) A copy of this permit must be provided to the Contractor and all subcontractors conducting the work, and must be in their possession at the work site.
- 6) If, at any time, a discharge to surface waters occurs, or any water quality problem arises, the project shall cease immediately and the Regional Water Board shall be notified promptly.
- 7) Yearly monitoring reports for the required compensatory mitigation shall be provided to the Regional Water Board by July 15 during each calendar year for a total of five years. Reports shall include photo documentation of the Cotati Creek mitigation areas. After five years have passed, the mitigation will be evaluated for successful attainment of the final success criteria, and a decision will be made whether additional mitigation measures are necessary to insure that no net loss of wetland habitat occurs. Reports shall be prepared by a professional consultant with in-depth experience in wetland ecosystem creation and function, as well as wetland mitigation monitoring techniques. Reports shall be submitted to the attention of staff member Andrew Jensen.
- 8) Instream work shall not commence until June 15th and all work within the waterway shall be complete prior to October 15th.
- 9) This Order is not transferable. In the event of any change in control of ownership of land presently owned or controlled by the Applicant, the Applicant shall notify the successor-in-interest of the existence of this Order by letter

and shall forward a copy of the letter to the Regional Water Board at the above address.

To discharge dredged or fill material under this Order, the successor-in-interest must send to the Regional Water Board Executive Officer a written request for transfer of the Order. The request must contain the requesting entity's full legal name, the state of incorporation if a corporation, address and telephone number of the person(s) responsible for contact with the Regional Water Board. The request must also describe any changes to the Project proposed by the successor-in-interest or confirm that the successor-in-interest intends to implement the Project as described in this Order.

- 10) The Applicant shall provide photos of the completed work to the appropriate Regional Water Board staff person, in order to document compliance. The Applicant shall also provide photos of the completed work areas after the first significant rainfall event in order to ensure that erosion control has been successful.
- 11) If flow in the creek is present at project commencement and dewatering is found to be necessary, the applicant will comply with the dewatering procedures outlined in this permit.

Water Quality
Certification:

I hereby issue an order [23 CCR Subsection 3831(e)] certifying that any authorized discharge from the Cotati Creek Bypass Project (WDID No. 1B05015WNSO) will comply with the applicable provisions of Sections 301 ("Effluent Limitations"), 302 ("Water Quality Related Effluent Limitations"), 303 ("Water Quality Standards and Implementation Plans"), 306 ("National Standards of Performance"), and 307 ("Toxic and Pretreatment Effluent Standards") of the Clean Water Act [33 USC Subsection 1341 (a)(1)], and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ, "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification" which requires compliance with all conditions of this Water Quality Certification (enclosed).

Except as may be modified by any preceding conditions, all certification actions are contingent on: a) the discharge being limited and all proposed mitigation being completed in strict compliance with the applicant's project description, and; b)

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compliance with all applicable requirements of the Regional Water Board's Water Quality Control Plan for the North Coast Region (Basin Plan).

Expiration: The authorization of this certification for any dredge and fill activities expires on October 15, 2010, unless new information warrants revision of this determination before the expiration date. Conditions and monitoring requirements outlined in this certification are not subject to the expiration date outlined above, and remain in full effect and are enforceable.

Please notify Andrew Jensen of our staff at (707) 576-2683 prior to construction (pursuant to Additional Condition No. 1 above) so that we can answer any public inquiries about the work.

Sincerely,

Catherine Kuhlman
Executive Officer

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Enclosure: State Water Resources Control Board Order No. 2003-0017-DWQ, General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received State Water Quality Certification ____

cc: Ms. Carrie Lukacic, Winzler & Kelly, 495 Tesconi Circle, Santa Rosa, CA 95401

Ms. Jane Hicks, U.S. Army Corps of Engineers, Regulatory Branch, 333 Market Street, San Francisco, CA 94105